

Appln. No. 10/805,820  
Amendment dated November 26, 2008  
Reply to Office Action mailed October 14, 2008

### **REMARKS**

Reconsideration is respectfully requested.

Claims 1 through 3, 5 through 12, 14 through 28 and 30 through 35 remain in this application. Claims 4, 13 and 29 have been cancelled. No claims have been withdrawn. Claims 36 and 37 have been added.

The Examiner's rejections will be considered in the order of their occurrence in the Office Action.

#### **Paragraph 1 of the Office Action**

Claim 25 have been objected to for the informalities noted in the Office Action.

Claim 25 have been amended in a manner believed to clarify any informalities in the language. Specifically, in line 9, "the group group" has been amended to read -the group--.

Withdrawal of the objection to claim 25 is therefore respectfully requested.

#### **Paragraph 2 of the Office Action**

Claims 1 through 3, 5 through 10 and 15 through 24 have been rejected under 35 U.S.C. §112 (first paragraph) as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention.

Claims 1 and 15 have been amended to recite "receiving a personal identification number (PIN) from a user initiating the telephone session". It is submitted that this requirement of the claims, particularly as further clarified, are disclosed in an enabling manner in the specification and drawings of the patent application, especially as described at page 8, line 3 et seq. (where it is stated that "the system receives a PIN") and shown in

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Figure 2A.

Withdrawal of the §112 (first paragraph) rejection of claims 1 through 3, 5 through 10 and 15 through 24 is respectfully requested.

**Paragraph 2 of the Office Action**

Claims 30 through 35 have been rejected under 35 U.S.C. §102(e) as being anticipated by Aggarwal.

Claims 25 through 28 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Aggarwal in view of Maurille.

Claim 25 requires "a proximity detector communicably coupled to the IM client module and operable to: detect a change in the presence of an IM client user". Claim 30 requires "detecting a change in proximity of a user of an IM client". It is contended in the rejection of claim 30 that:

detecting a change in proximity of a user of an IM client [The buddy lists ping each other at short intervals to see who's online, column 2, lines 18-26]; and

However, it is submitted that even if the summary in this quote of the disclosure of the Aggarwal patent is accurate (which is not conceded), that would not disclose to one of ordinary skill in the art the claim requirement of "detecting a change in proximity of a user". The Aggarwal patent discusses the use of a "ping" to attempt to determine if someone is "online", but what really occurs is that the system interprets a returned ping as that the computer is online and the IM program is loaded and responding to the ping. Aggarwal states at col. 2, lines 18 through 26 states that

Instant messaging systems do not give any other information about the remote device other than online status. After all, online status is the only information about remote devices that is needed in instant messaging. It is also relatively simple to determine the online status. The buddy lists ping each other at short intervals to see who's online. If the ping is successful, the client reports that your buddy is online and ready to chat. These methods are specifically tailored to determining online status.

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It is submitted that the determination through a ping that someone is believed to be "online" does not suggest to one of ordinary skill in the art that there is any detection of a change in the proximity of the user of an IM client. One of ordinary skill in the art clearly recognizes that the fact that one is "online" (e.g., logged in) does not provide information about the proximity of the user, as the user could be anywhere (e.g., proximate or not proximate) while the user is "online", and could move away from a computing device without going "offline" (e.g. while remaining "online"), and could move toward a computing device without going online. More importantly, one of ordinary skill in the art recognizes that the online status of a person certainly does not indicate a "change in the presence of an IM client user" or "a change in proximity of a user". Further, the ping that is discussed in the selected portion of the Aggarwal patent does not "detect a change in proximity of a user", and is incapable of determining the location of the user.

It is therefore submitted that the Aggarwal patent, and in particular the system mentioned in the selected portion of the Aggarwal patent, do not disclose nor lead one of ordinary skill in the art to the requirements of claims 25 and 30. Furthermore, new claim 36 requires that "the proximity detector is operable to detect a change in physical proximity of the user to a computer on which the IM client module is operating" and claim 37 requires that "the detecting of a change in proximity of a user to the IM client comprises detecting a physical proximity of the user to a computer on which the IM client is loaded", which is even more foreign to the disclosure of Aggarwal.

In a previous rejection, reference was made to the Aggarwal patent at col. 13, lines 20 through 34, where it is stated there that:

Property notification subscriptions allow for messages to be generated and forwarded by a remote device when certain triggering conditions are met. The triggering condition may be, for example, a

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property change associated with the remote device. The properties can be as varied as the online status of the client, the value of a stock, the physical condition of a person monitored with medical equipment, the amount of product with which a vending machine is stocked, or any other measurable condition that might be imagined. Thus, the invention enables event-driven notifications to be instantly communicated from one network to another, even if one or both of the networks are protected by firewalls.

It is submitted that one of ordinary skill in the art would not read this portion of the Aggarwal patent and arrive at the requirement of claim 30 set forth above. While there is mention here of "certain triggering conditions", and "any other measurable condition that might be imagined", these broad and highly generalized statements do not disclose or suggest the more specific requirement of "detecting a change in proximity of a user" as recited in the claim. Moreover, the "physical condition of a person monitored with medical equipment" does not suggest to one of ordinary skill in the art "detecting change in proximity of a user".

It is therefore submitted that the Aggarwal patent would not lead one of ordinary skill in the art to the applicant's claimed invention as defined in claim 30, especially with the requirements set forth above, and therefore it is submitted that claim 30 is allowable over the prior art. Further, claims 31 through 33 and 35, which depend from claim 30, and claim 34, which depends from claim 33 also include the requirements discussed above and therefore are also submitted to be in condition for allowance.

Withdrawal of the §102(e) and §103(a) rejections of claims 1 through 3, 5 through 12, 14 through 28 and 30 through 35 is therefore respectfully requested.

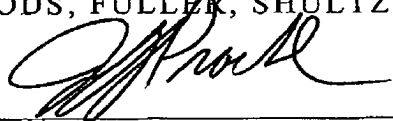
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### CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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